

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff(s),

CASE NUMBER: 05-80025

HONORABLE VICTORIA A. ROBERTS

v.

D-1 TIMOTHY DENNIS O'REILLY,

Defendant(s).

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ORDER

This matter is before the Court on Timothy O'Reilly's "Request for Timely Production of Required 12.2 Reports by the Prosecution." (Doc. #604). O'Reilly asks the Court to issue an order directing the Government to produce any expert reports of rebuttal mental health information.

Oral argument was heard on August 5, 2010.

The Court **DENIES** O'Reilly's request.

Because O'Reilly was not examined by the Government, it does not have any rebuttal expert reports, as contemplated by Fed. R. Crim. P. 12.2. Accordingly, Fed. R. Crim. P. 16(b)(1)(C)(ii) governs:

The defendant must, at the government's request, give to the government a written summary of any testimony that the defendant intends to use under Rules 702, 703, or 705 of the Federal Rules of Evidence as evidence at trial, if[] the defendant has given notice under Rule 12.2(b) of an intent to present expert testimony on the defendant's mental condition.

This summary must describe the witness's opinions, the bases and reasons for those opinions, and the witness's qualifications.

Dr. Charles Imbus is the only medical doctor that will testify at the penalty phase regarding O'Reilly's mental health. At the hearing, O'Reilly provided the Government Dr. Imbus' expert report.

By **August 8, 2010**, O'Reilly will e-mail the Government a summary of Dr. Imbus' opinions, the bases and reasons for those opinions, and his qualifications.

The Government's expert will review Dr. Imbus' report. During the week of August 9, 2010, the Court will determine when the Government must provide defense counsel its rebuttal expert report.

IT IS ORDERED.

s/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: August 6, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record by electronic means or U.S. Mail on August 6, 2010.

s/Linda Vertriest
Deputy Clerk